

Appeal from the decision of the Eastern States Office, Bureau of Land Management, rejecting simultaneous oil and gas lease offer ES 20525.

Reversed and remanded.

1. Oil and Gas Leases: Rentals

Where a successful drawee demonstrates on appeal that his first year's advance rental was timely received by BLM, but that BLM erroneously failed to credit his remittance and rejected his offer, the case will be remanded to the State Office of BLM with instructions to issue the lease to the successful drawee, all else being regular.

APPEARANCES: James S. Holmberg, Esq., Denver, Colorado, for appellant.

OPINION BY ADMINISTRATIVE JUDGE FISHMAN

Vincent J. Duncan appeals from a decision dated June 19, 1979, of the Eastern States Office, Bureau of Land Management (BLM), rejecting his simultaneous oil and gas lease offer ES 20525.

Appellant's simultaneous noncompetitive oil and gas lease offer card was drawn with first priority in the March 1979 drawing for parcel ES 27. Appellant's rental check in the amount of \$20 was received by BLM on March 26, 1979. On April 4, 1979, BLM sent appellant a notice of rental due indicating that the offer comprised 20.24 acres and requesting that appellant remit the additional amount of \$1 within 15 days from receipt of the notice. Appellant received the notice on April 9 so that the additional payment was due on or before April 24, 1979.

The decision appealed from states that "[n]o additional rental was received within 15 days" and it therefore rejected the offer pursuant to 43 CFR 3112.4-1.

In his statement of reasons, appellant asserts that in response to BLM's notice, he "promptly submitted his check 11791, dated April 9, 1979 in the amount of \$1.00." Appellant states that this check was received in the Eastern States Office on April 12, 1979. Appellant's Exhibit No. 5 is a xerox copy of this check indicating that it was being submitted as additional advance rental for the lease in question.

Appellant's Exhibit No. 6 is a registered return receipt showing that the Eastern States Office received the check on April 12, well within the 15-day period. By notice of return of remittance, dated May 8, 1979, BLM returned appellant's check, numbered 11791, with the comment "insufficient check sent, please forward correct amt. on next check." On May 14 appellant wrote BLM, enclosing his check 11791, and explaining that the check was for additional rental on his lease offer. BLM received this communication on May 17, 1979.

[1] The facts herein indicate that appellant's check 11791, was improperly processed by BLM, and the decision appealed from erroneously states that no additional rental was received within the allowed 15 days. It appears that appellant fully complied with 43 CFR 3112.4-1 and is therefore qualified to receive the lease in question.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is reversed and the case file is remanded to the Eastern States Office, with instructions to issue the lease to appellant, all else being regular.

Frederick Fishman  
Administrative Judge

We concur:

Joan B. Thompson

Administrative Judge

